

SENATE BILL NO. 464

INTRODUCED BY J. O'NEIL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR NOMINATION OF POLITICAL PARTY CANDIDATES FOR THE OFFICE OF UNITED STATES SENATOR BY A CAUCUS; DEFINING "CAUCUS" FOR THE PURPOSE OF NOMINATING CANDIDATES FOR THE OFFICE OF UNITED STATES SENATOR; REQUIRING POLITICAL PARTIES TO ADOPT RULES FOR A CAUCUS CALLED FOR THE PURPOSE OF NOMINATING A CANDIDATE FOR THE OFFICE OF UNITED STATES SENATOR; AND AMENDING SECTIONS 13-1-101, 13-10-201, 13-10-405, 13-14-112, 13-14-113, 13-38-101, AND 13-38-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Nomination of United States senators -- definition. (1) Each caucus shall, by secret ballot pursuant to 13-1-102, nominate a candidate for the office of United States senator, and the name of the candidate nominated must be placed on the ballot for the general election as the candidate of the party of the caucus that nominated the candidate.

(2) (a) A caucus held for the purpose of nominating a candidate for the office of United States senator must be held at least 76 days prior to and not more than 135 days prior to the next election of a United States senator from Montana.

(b) The legislature does not have to be convened for a caucus to meet for the purpose of nominating a candidate to the office of United States senator.

(3) If a member of the legislature is elected or appointed to or otherwise serves as a member of the legislature without being a member of a political party organized pursuant to chapter 38 of this title, the member may join a caucus if a majority of the caucus approves.

(4) The caucus must be held according to the rules of the party adopted pursuant to 13-38-101.

(5) A candidate nominated pursuant to this section must be considered to have won a primary election and, for the purposes of this title, be treated in the same manner as a candidate that was nominated by a primary election.

(6) (a) For the purposes of this section, "caucus" means every member of the same political party, organized pursuant to chapter 38 of this title, who is a member of the Montana house of representatives or

senate when the caucus is held.

(b) For the purposes of nominating a candidate for the office of United States senator, a majority of the members of a caucus is a quorum authorized to conduct business and a nomination by a quorum is considered to be the same as a nomination by the entire caucus.

Section 2. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Active elector" means an elector who voted in the previous federal general election and whose name is on the active list.

(2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

(3) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(4) "Application for voter registration" means a voter registration form prescribed by the secretary of state that is completed and signed by an elector, submitted to the election administrator, and contains voter registration information subject to verification as provided by law.

(5) "Ballot" means:

(a) a paper ballot used with a paper-based system, such as an optical scan system or other technology that automatically tabulates votes cast by processing the paper ballots; or

(b) a nonpaper ballot, such as a ballot used with a nonpaper-based system, such as a lever machine, a direct recording electronic machine, or other technology.

(6) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination, or appointment as a candidate for public office as required by law;

(b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and retained contributions, made expenditures, or given consent to an individual, organization, political party, or committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure nomination or election to any office at any time, whether or not the office for which the individual will seek nomination or election is known when the:

(i) solicitation is made;

1 (ii) contribution is received and retained; or

2 (iii) expenditure is made; and

3 (c) an officeholder who is the subject of a recall election.

4 (7) (a) "Contribution" means:

5 (i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value
6 to influence an election;

7 (ii) a transfer of funds between political committees;

8 (iii) the payment by a person other than a candidate or political committee of compensation for the
9 personal services of another person that are rendered to a candidate or political committee.

10 (b) ~~"Contribution"~~ Contribution does not mean:

11 (i) services provided without compensation by individuals volunteering a portion or all of their time on
12 behalf of a candidate or political committee or meals and lodging provided by individuals in their private
13 residences for a candidate or other individual;

14 (ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any
15 broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

16 (iii) the cost of any communication by any membership organization or corporation to its members or
17 stockholders or employees; or

18 (iv) filing fees paid by the candidate.

19 (8) "Election" means a general, regular, special, or primary election held pursuant to the requirements
20 of state law, regardless of the time or purpose.

21 (9) "Election administrator" means the county clerk and recorder or the individual designated by a
22 county governing body to be responsible for all election administration duties, except that with regard to school
23 elections, the term means the school district clerk.

24 (10) "Elector" means an individual qualified to vote under state law.

25 (11) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift
26 of money or anything of value made for the purpose of influencing the results of an election.

27 (b) ~~"Expenditure"~~ Expenditure does not mean:

28 (i) services, food, or lodging provided in a manner that they are not contributions under subsection (7);

29 (ii) payments by a candidate for a filing fee or for personal travel expenses, food, clothing, lodging, or
30 personal necessities for the candidate and the candidate's family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees.

(12) "Federal election" means a general or primary election in which an elector may vote for individuals for the office of president of the United States or for the United States congress, but does not include a nomination for United States senator pursuant to [section 1].

(13) "General election" or "regular election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, ~~"general election"~~ general election means an election held at the time provided in 13-1-104(1). For ballot issues required by Article XIV, section 9, of the Montana constitution to be submitted as a constitutional initiative at a regular election, regular election means an election held at the time provided in 13-1-104(1).

(14) "Inactive elector" means an individual who failed to vote in the preceding federal general election and whose name was placed on an inactive list pursuant to 13-2-220.

(15) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220.

(16) "Individual" means a human being.

(17) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for its qualification and placement upon the ballot has been completed, except that a statewide issue becomes a "ballot issue" upon approval by the secretary of state of the form of the petition or referral.

(18) "Legally registered elector" means an individual whose application for voter registration was accepted, processed, and verified as provided by law.

(19) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (6).

(20) "Political committee" means a combination of two or more individuals or a person other than an

individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(21) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(22) (a) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of candidates for offices of political subdivisions when the time for nominations is set on the same date for all similar subdivisions in the state.

(b) The nomination of a candidate for the office of United States senator in the manner required in [section 1] is not a primary.

(23) "Provisional ballot" means a ballot cast by an elector whose identity and eligibility to vote have not been verified as provided by law.

(24) "Provisionally registered elector" means an individual whose application for voter registration was accepted but whose eligibility has not yet been verified as provided by law.

(25) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(26) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(27) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(28) "Statewide voter registration list" means the voter registration list established and maintained pursuant to 13-2-107 and 13-2-108.

(29) "Transfer form" means a form prescribed by the secretary of state that may be filled out by an elector to transfer the elector's registration when the elector's residence address has changed within the county.

(30) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided in

1 13-15-206.

2 (31) "Voting system" or "system" means any machine, device, technology, or equipment used to
3 automatically record, tabulate, or process the vote of an elector cast on a paper or nonpaper ballot."
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5 **Section 3.** Section 13-10-201, MCA, is amended to read:

6 **"13-10-201. Declaration for nomination.** (1) Each candidate in the primary election, except
7 nonpartisan candidates filing under the provisions of chapter 14, shall file a declaration for nomination with the
8 secretary of state or election administrator. A candidate may not file for more than one office. Each candidate
9 for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

10 (2) A declaration for nomination must be filed in the office of:

11 (a) the secretary of state for placement of a name;

12 (i) on the ballot for the presidential preference primary, a ~~congressional office member of the United~~
13 ~~States house of representatives, a member of the United States senate for which nomination by a caucus,~~
14 ~~pursuant to [section 1], does not apply and for which the provisions of 13-10-204 and 13-10-211 or part 5 or 6~~
15 ~~of this chapter apply,~~ a state or district office to be voted for in more than one county, a member of the
16 legislature, or a judge of the district court; or

17 (ii) before a caucus that will nominate a candidate for the United States senate pursuant to [section 1];

18 (b) the election administrator for a county, municipal, precinct, or district office (other than a member
19 of the legislature or judge of the district court) to be voted for in only one county.

20 (3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of
21 an indigent candidate, send with it the documents required by 13-10-203. The declaration for nomination must
22 be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the
23 filing is made.

24 (4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by
25 the elector's party. For a partisan election, an elector may not file a declaration for more than one party's
26 nomination.

27 (5) (a) The declaration for nomination must be in the form and contain the information prescribed by
28 the secretary of state.

29 (b) A person seeking nomination to the legislature shall provide the secretary of state with a street
30 address, legal description, or road designation to indicate the person's place of residence. If a candidate for the

1 legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state
2 on a form prescribed by the secretary of state.

3 (c) The secretary of state and election administrator shall furnish declaration for nomination forms to
4 individuals requesting them.

5 (6) Declarations for nomination must be filed:

6 (a) no sooner than 135 days before the election in which the office first appears on the ballot and no
7 later than 5 p.m., 75 days before the date of the primary election; and

8 (b) no sooner than 135 days before the caucus at which the nomination is first considered and no later
9 than 5 p.m., 75 days before the date of the caucus.

10 (7) A declaration for nomination form may be sent by facsimile transmission, if a facsimile facility is
11 available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the
12 election administrator or to the secretary of state."

13
14 **Section 4.** Section 13-10-405, MCA, is amended to read:

15 **"13-10-405. Submission and verification of petition.** Petitions of nomination for the presidential
16 preference primary election and the affidavits of circulation required by 13-27-302 must be presented to the
17 election administrator of the county in which the signatures are gathered at least 1 week before the primary
18 election filing deadline prescribed in 13-10-201(6)(a). A filing fee is not required. The election administrator shall
19 verify the signatures in the manner prescribed in 13-27-303 through 13-27-308 and ~~must~~ shall forward the
20 petitions to the secretary of state."

21
22 **Section 5.** Section 13-14-112, MCA, is amended to read:

23 **"13-14-112. Declarations for nomination -- fee.** (1) Nonpartisan candidates shall file declarations for
24 nomination as required by the primary election laws in a form prescribed by the secretary of state except as
25 provided in 13-14-113. A candidate may not file for more than one office.

26 (2) Declarations may not indicate political affiliation. The candidate may not state in the declaration any
27 principles or measures that the candidate advocates or any slogans.

28 (3) Each individual filing a declaration shall pay the fee prescribed by law for the position that the
29 individual seeks.

30 (4) Declarations must be filed in the office of the secretary of state or the appropriate election

1 administrator as provided in 13-10-201(6)(a). Time of filing must be the same as provided in 13-10-201(6)(a)."

3 **Section 6.** Section 13-14-113, MCA, is amended to read:

4 **"13-14-113. Filing for offices without salary or fees.** (1) Candidates for nonpartisan offices for which
5 a salary or fees are not paid shall file with the appropriate official a petition for nomination containing the same
6 information and the oath of the candidate required for a declaration of nomination in a form prescribed by the
7 secretary of state.

8 (2) The petition must contain the signatures of registered electors of the election district in which the
9 office will be on the ballot. The number of signatures must be equal to 5% of the total vote cast for the successful
10 candidate for that office at the last general election, but may not be less than five signatures.

11 (3) The number of signatures necessary for a petition for nomination for an office not previously on the
12 ballot or for which the election district boundaries have changed since the last general election must be
13 determined by the secretary of state.

14 (4) Petitions for nomination must be filed at the same time provided in 13-10-201(6)(a) for other
15 candidates and offices.

16 (5) A candidate may not file for more than one office."

18 **Section 7.** Section 13-38-101, MCA, is amended to read:

19 **"13-38-101. Powers of parties -- duties.** (1) Each political party ~~shall have power to~~ may:

20 ~~(1)(a)~~ (a) make its own rules;

21 ~~(2)(b)~~ (b) provide for and select its own offices;

22 ~~(3)(c)~~ (c) call conventions and provide for the number and qualification of delegates;

23 ~~(4)(d)~~ (d) adopt platforms;

24 ~~(5)(e)~~ (e) provide for selection of delegates to national conventions;

25 ~~(6)(f)~~ (f) provide for the nomination of presidential electors;

26 ~~(7)(g)~~ (g) provide for the selection of national ~~committeemen and women~~ committee members;

27 ~~(8)(h)~~ (h) make nominations to fill vacancies occurring among its candidates nominated for offices to be
28 filled by the state at large or by any district consisting of more than one county where ~~such~~ the vacancies are
29 caused by death, resignation, or removal from the electoral district; and

30 ~~(9)(i)~~ (i) perform all other functions inherent in such an organization.

(2) Each political party shall adopt rules for conducting a nominating caucus as provided for in [section

11."

Section 8. Section 13-38-104, MCA, is amended to read:

"13-38-104. Party rules to be filed with secretary of state. The state central committee of each political party in this state ~~must~~ shall file a current copy of the rules of government of the party, adopted pursuant to 13-38-101, with the secretary of state."

NEW SECTION. Section 9. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 13, chapter 10, and the provisions of Title 13, chapter 10, apply to [section 1].

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